

STRATEGIC PLANNING BOARD

Date of meeting: 10 February 2010
Report of: Julie Openshaw – Legal Team Manager (Places
Regulatory and Compliance
Philippa Lowe – Development Manager
Title: Management of S106 Planning Agreements

1.0 Purpose of Report

- 1.1 To inform members of work ongoing to manage work on planning obligations, and to determine that certain matters which have been ongoing can now be treated as finally disposed of.

2.0 Current Procedure

- 2.1 In order to improve efficiency in the processing of S106 planning obligations and compliance with target deadlines, work has been ongoing to develop the interface between planning services and legal services. Initially, a list of ongoing matters has been compiled, and a copy of the latest version of the list is attached at Appendix 1. Maintenance of the list is work in progress, and the list will be refined and updated on a regular basis as cases move through the process. Each case has also been allocated a priority, and these figures will also be regularly reviewed and if necessary amended.
- 2.2 As well as monitoring and prioritising current applications, there is an expectation that planning applications in general should be determined in a timely fashion, as no purpose is served by applications remaining “live” on the register when there is no prospect of the development proceeding, or of the planning obligation being entered into to secure those matters which are considered necessary to mitigate the impact of the development or other outstanding issues resolved.
- 2.3 There may be a number of reasons why a development does not proceed, not all of which are in the applicant’s control, nor indeed within the control of the planning authority. Having matters outstanding on the register for a protracted period of time can also lead to uncertainty.
- 2.4 The General Development Procedure Order 1995, as amended, provides detail about how planning applications are to be processed, and time periods for decisions on both major and non-major applications.

- 2.5 Under Article 25 of the Order, the Statutory Register which the planning authority must maintain is divided into two parts. Part I deals with current applications, and Part II covers historic applications. Part I covers applications which are “not finally disposed of” (Article 25(3)). Article 25 (11) sets out criteria for determining whether an application is “finally disposed of”. Of several options, only sub-paragraph (a) is relevant for current purposes, and this states: “(a) it has been decided by the authority (or the appropriate period allowed under Article 20(2) of this Order has expired without their giving a decision) and the period of six months specified in Article 23 of this Order has expired without any appeal having been made to the Secretary of State.”
- 2.6 Article 20(2) provides that the time period for decision (or longer period as may have been agreed in writing between the applicant and the local planning authority) is thirteen weeks from receipt for major development applications, and eight weeks for non-major applications, while Article 23 deals with the period for lodging of an appeal. (In this sense, decision is taken to refer to the provision of a decision notice, not a resolution to do so, subject to a planning obligation being entered into). At the end of such periods where no decision or appeal has been made, an application can thus be transferred from Part I to Part II of the Register as “finally disposed of”.
- 2.7 Work is ongoing to identify cases in which this period has now expired and no appeal has been lodged with the Secretary of State. A process is being implemented to warn developers and provide them with a choice of either withdrawing the application or completing the agreement; in cases where neither happens, the Committee will be invited to determine that these applications be treated as “finally disposed of” and transferred to Part II of the register. In future, further reports will be brought before the committee for this purpose from time to time, and a similar process is being implemented for applications meeting the criteria which were the subject of officer delegated determinations.

3.0 Proposal

- 3.1 In addition to the work outlined above, standards forms for instructions and heads of terms are being developed, and the potential for use of Planning Performance Agreements, essentially a collaborative project management process and tool, designed as a means to speed up the delivery of large-scale major planning applications, is being examined.

4.0 Recommendation

- 4.1 That members receive this report and also confirm that the cases referred to in paragraph 2.7 above be treated as finally disposed of.

For further information:

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